

MINUTES OF SPECIAL MEETING  
SUGAR CITY COUNCIL  
FRIDAY, SEPTEMBER 3, 2021

Presiding: Mayor Steven Adams  
Meeting Via Internet and at City Hall Convened at 6:30 p.m.  
Prayer: Councilwoman Ball  
Pledge of Allegiance: Councilwoman Fogle

Present at City Hall and Online: Mayor Steven Adams; Councilors Joy M. Ball, Glenn Dayley, Connie Fogle, and Catherine Nielsen; Clerk-Treasurer Wendy McLaughlin; City Attorney Chase Hendricks; City Building Inspector and P&Z Administrator Quinton Owens; Design Review Chair Paul Jeppson; Community Development Specialist Kurt Hibbert; Old Farm Estates Developers Brandt Monette; and Jeff Lerwill; Citizens Natalie Cleverley, Timothy Frogue, Elaine King, Lawrence Nielsen, Neal ?, and others who may have joined electronically but not identified.

**CONSENT AGENDA:**

**Minutes 8-26-2021**

**MOTION:** It was moved by Councilwoman Ball and seconded by Councilwoman Nielsen approve the minutes of 8-26-21; motion carried.

**MAYOR ADAMS STATEMENT:** Mayor Adams made a statement to the public that the executive session held last week was done in accordance with state statute and city code. The special meeting tonight was scheduled last week and posted correctly due to P&Z continuing their public hearing to September 2 and time constraints. It is not an emergency meeting, nor was it intentionally scheduled at the same time as the Sugar Salem homecoming football game as some suggested. The city is striving for transparency and the issues at hand have been ongoing for some time. He thanked those who have worked so hard with the time constraints and felt that there was a spirit of cooperation. Attorney Chase Hendricks has represented the city at all times.

**OLD FARM ESTATES (OFE) PUBLIC HEARING UPDATE:** Planning and Zoning (P&Z) Administrator Quinton Owens reported that P&Z continued the public hearing of August 25 to Thursday, September 2, 2021. The public comment portion had been completed giving all who wanted to testify time to be heard about six hours. The meeting last night lasted 8 hours at which time they discussed all of the OFE public hearing items and completed the Findings of Fact (FOF) for Teton Heights Preliminary and Final Plats and Special Use Permit applications and Peregrine Townhomes Preliminary and Final Plats and Planned Use Development (PUD) applications. The FOF for the Development Agreement and Master Plan; Zone Change Applications; and Division No 4 Preliminary Plat could be completed by the next P&Z meeting Thursday, September 16.

**FOF OLD FARM ESTATES (OFE) DEVELOPMENT AGREEMENT AND MASTER PLAN:** No report.

**FOF OFE ZONE CHANGES:** No report.

**FOF OFE DIVISION NO. 4 PRELIMINARY PLAT:** No report.

**FOF OFE TETON HEIGHTS PRELIMINARY AND FINAL PLATS AND SPECIAL USE PERMIT APPLICATIONS:** After much discussion the council accepted P&Z's FOF for OFE Teton Heights (see Attachment #1).

**MOTION:** It was moved by Councilwoman Nielsen and seconded by Councilwoman Fogle to accept P&Z's recommendations and zone change for Teton Heights; motion carried unanimously.

A summary of the items discussed are listed below with explanations in detail by Developer Brandt Monette:

- Staff reviews
- Design review findings and recommendations
- Public comments considered
- Preliminary Plats and Final Plats
- Parking variance and enforcement
- Increased lighting standards
- Increased buffering standards
- Increased landscaping standards
- Completion before Certificates of Occupancy are issued

**PUBLIC COMMENT:** The mayor declared a public comment out of order. He was prepared to offer some time to those present who wanted to comment before the council. However, it was not recommended by City Attorney Chase Hendricks since it was unannounced and would have been considered ex parte communication. Opportunity to speak had already been given at the public hearing.

**FOF OFE PEREGRINE TOWNHOMES PRELIMINARY AND FINAL PLATS AND PUD APPLICATIONS:** After much discussion the council accepted P&Z's FOF for OFE Peregrine Townhomes (see Attachment #2).

**MOTION:** It was moved by Councilwoman Ball and seconded by Councilwoman Nielsen with a friendly amendment to accept P&Z's recommendations for Peregrine Townhomes; motion carried unanimously.

A summary of the items discussed are listed below:

- PUD form and code requirements
- Nonexclusive park deeded to city
- Watered landscaping
- Sidewalks
- Lighting pollution
- Lowered density

Meeting adjourned at 8:20 p.m.

Signed: \_\_\_\_\_  
Steve Adams, Mayor

Attested: \_\_\_\_\_  
Wendy McLaughlin, Clerk-Treasurer



Old Farm Estates Division # 6, Sugar City, Idaho, east of S 7<sup>th</sup> W., north of W 6<sup>th</sup> S., and south of W. 5<sup>th</sup> S. Street. The property is currently zoned Partially in a R3 zone and Partially in a MU2 zone, but is anticipated to have the Zone Changed to all MU2. The Zone Change Application Hearing is to change the partial R3 zone to MU2. The Preliminary Plat Application will be considered as well for the property. It shall consists of 338 apartment Units being zoned MU2 with a density of 21.4 units/acre. The city ordinance requires 20 percent open space for this division. The developer will provide a minimum of 35% open space, contingent on a revised parking requirement of 1.91 parking stalls per unit, with a Special Use Permit reduction of 0.09 parking stalls per unit. An original SUP was granted for a plat for "Teton Heights, A Portion of Division 3," which was previously recorded and will be retired on approval. An application for a Special Use Permit is be requested for a lower number of parking stalls on the single bedroom units only.

The Property is described as:

A PARCEL OF LAND BEING SITUATED IN THE NORTHEAST ¼ OF SECTION 9 TOWNSHIP 6 NORTH, RANGE 40 EAST OF THE BOISE MERIDIAN AND FOR WHICH IS MORE SPECIFICALLY DESCRIBED AS FOLLOWS.

BEGINNING AT A POINT THAT IS N.89°25'14"E. 34.00 FEET TO THE EAST RIGHT OF WAY LINE OF S 7<sup>th</sup> W AVENUE AND N.00°11'21"E. 578.51 FEET ALONG THE SAID EAST RIGHT OF WAY LINE FROM THE WEST QUARTER CORNER SECTION 9, TOWNSHIP 6 NORTH, RANGE 40 EAST OF THE BOISE MERIDIAN; RUNNING THENCE N.00°11'21"W. 445.72 FEET TO A POINT OF A CURVE WITH A RADIUS OF 312.00 FEET AND A CHORD BEARING N.14°58'28"E. 163.22 FEET; THENCE TO THE RIGHT ALONG SAID CURVE 165.15 FEET THROUGH A CENTRAL ANGLE OF 30°19'39"; THENCE N.30°08'18"E. 365.70 FEET TO A POINT OF A CURVE WITH A RADIUS OF 25.00 FEET AND A CHORD BEARING N.75°08'18"E. 35.36 FEET; THENCE TO THE RIGHT ALONG SAID CURVE 39.27 FEET THROUGH A CENTRAL ANGLE OF 90°00'00"; THENCE S.59°51'42"E. 416.97 FEET TO A POINT OF A CURVE WITH A RADIUS OF 541.00 FEET AND A CHORD BEARING S.70°49'59"E. 205.92 FEET; THENCE TO THE LEFT ALONG SAID CURVE 286.47 FEET THROUGH A CENTRAL ANGLE OF 21°56'32"; THENCE S.00°11'34"E. 650.18 FEET; THENCE S.00°11'34"E. 815.79 FEET TO THE POINT OF BEGINNING.

CONTAINING 14.320 ACRES

2. Teton Heights Property Fund, LLC/Lerwill Development LLC are the record owner of the property featured in the Applications.

3. A public hearing on the application was held on August 25, 2021 at 6:00 p.m. at Sugar City Hall.

4. The application was deemed complete, and that all fees had been paid. All required notices regarding the hearing had been published, mailed and posted in a timely fashion as required by Sugar City Code and Idaho State law. The affidavit of publication and affidavit of

mailing and posting were entered in the record and are included with this recommendation. Deputy clerk for the city of Sugar City signed affidavit of the above.

5. An opportunity to give testimony was given for those in favor, neutral and opposed to the applications. (see also the Finding of Facts in OFE Zone Changes and OFE Master Plan and Development Agreement for additional comments).

- The testimony of those in favor stated: N/A
- The neutral testimony stated: N/A
- Those in opposition stated: Opposed to similar developments in Rexburg. General opposition to reduction in Parking because it does not conform to our Code. If parking is reduced they will park out in front of residential homes near the development. General concerns about the required zoning.
- Rebuttal: If this plan is not approved, based on the existing code and zoning as they exist that they could build exactly what is being presented here as Teton Heights Division 2 with 2 story buildings. So based on what is approved and ready to build under the old Plan this same thing could be developed. A builder should be allowed to rely on City Code as well. The Special Use Permit is being requested in part, and allowed by Sugar City Code, just like other code.

6. Brandt Monette, introduced the Application(s). In conformance with the newly proposed Master Plan and Zoning Map as well as the Revised Development Agreement Teton Heights was required to be shifted west to allow space for the Park to be built. Teton Heights had previously come through the process and was approved. There will be visitor parking of 6 units.

7. Deliberation: The Commission discussed that the 1.9 parking stalls because it will limit just the single apartments. The Code allows for this and the Commission is in favor of the reduction in parking lot. 8-6-2(h). This would be a reduction of 31 parking stalls. There will be 6 visitor parking stalls. There was some concern about ADA stalls further reducing parking availability (around 13 units for ADA stalls). There was concerns about the buffering, City Code 10-4-5 as that was brought up several times in the Public Comment portion, particularly along 7<sup>th</sup> Ave. To combat this the Buildings have been reduced to 2 story buildings and a line of trees and berming will be installed by the Developer. Since this is a MU zone the Clubhouse would be considered Commercial. To ensure proper buffering between different zones a rolling berm and trees will be built by the developer as indicated in the Design Review Findings of Fact and Conclusions. Dusk till dawn the lights will be on for safety issues.

9. The Applications complied with Sugar City Ordinance Title 9 Chapter 5

10. The Applications were properly Noticed according to Idaho Code 67-6509 and 67-6511.

11. The application is not in conflict with the adopted Comprehensive Plan. The Goals of the Comprehensive Plan are:

1. Provide to all its residents and visitors opportunities for full enjoyment of the city (see chapter 2);
2. Balance public interests with interests of property owners (see chapter 3);
3. Promote the quality and accessibility of educational opportunities (see chapter 4);

4. Promote appropriate economic expansion and prosperity (see chapter 5);
5. Provide for judicious use of land and management of growth (see chapter 6);
6. Exercise wise stewardship over natural resources, while preventing hazards and mitigating their effects (see chapter 7);
7. Ensure an effective transportation system (see chapter 8);
8. Provide high-quality public services adapted to neighborhood needs (see chapter 9);
9. Promote wholesome recreation, community activities, and recreational facilities that complement the city's location in the larger region (see chapter 10);
10. Promote housing that provides opportunity for every resident (see chapter 11);
11. Promote preservation and development of special areas and sites to increase public awareness and enjoyment (see chapter 12);
12. Beautify the community in consistent ways (see chapter 13);
13. Establish an area of city impact that provides for expansion and prevents incompatible land use (see chapter 14).

12. The applications would not result in demonstrable adverse impacts upon the delivery of services by any political subdivision providing public services.

13. The Applications complied with Sugar City Ordinance(s) Title 8, Chapter 4; Title 9, Chapter 6; and Title 10 and Idaho Code Title 50 Chapter 13.

14. The Applications were properly Noticed according to Idaho Code 67-6509 and 67-6512.

### CONCLUSIONS OF LAW (Decision)

#### ZONE CHANE

The Sugar City Planning and Zoning Commission concluded regarding the Zone Change that:

1. The application is not in conflict with the adopted Comprehensive Plan
2. The applications would not result in demonstrable adverse impacts upon the delivery of services by any political subdivision providing public services.
3. The Zone Change Requests comply with applicable City, State and Federal laws and regulations.

#### PRELIMINARY AND FINAL PLAT

The Sugar City Planning and Zoning Commission concluded the Preliminary and Final Plat Application meet Sugar City Ordinance(s) Title 8, Chapter 4; Title 9, Chapter 6; and Title 10 and Idaho Code Title 50 Chapter 13.

#### SPECIAL USE PERMIT

The Sugar City Planning and Zoning Commission concluded the Special Use Permit Application(s):

1. Are in conformance and shall be subject to conditions pursuant to the Sugar City zoning ordinance.

2. That services for the proposed use are adequate.
3. That the reduction of parking is not in conflict with the plan.

The following conditions shall be required:

1. That City Engineer's comments be addressed and corrected prior to recording the Final Plat.
2. Follow Design Reviews Recommendations as contained in their Finding of Facts and Conclusions of Law.
3. This Development shall adhere to the City Engineer's comments and shall be subject to his Approval.
4. Developer agreed to buffering continuous bermage that ebbs and flows on the western Boundary against 7<sup>th</sup> West of roughly 4 feet height. A mixture of deciduous and evergreen trees, other vegetation, and other landscaping characteristics shall be required on the western edge to reduce impacts on neighboring properties above what is depicted on the site plan and design drawings. Landscaping shall adhere to all City landscaping Code Requirements.
5. There shall be 6 visitor parking stalls.
6. Developer shall install lighting that shall not trespass onto neighboring properties. Lighting is required on the intersections but left to the City Engineer's discretion elsewhere and shall be full cut-off lighting. The perimeter lighting shall be handed over for City control.

#### PLANNING AND ZONING COMMISSION RECOMMENDATIONS

Including all of the above, the Sugar City Planning and Zoning Commission recommend that the City Council approve the Zone Change, Plat, and Special Use Application. It is also noted that the comprehensive plan, the land use schedule, public entity comment, public testimony and comments and expert testimony and comments were considered in the decision.

Signed and Dated this 25th day of August, 2021.

By: \_\_\_\_\_  
Chairman, Planning and Zoning  
Commission

Attest:

\_\_\_\_\_  
City Deputy Clerk

**Before the City of Sugar City  
Planning and Zoning Commission**

<p><b>In the Matter of an Application(s)</b></p> <p>OLD FARM ESTATES</p> <p>Peregrine Townhomes</p> <p>Peregrine Townhomes Property Fund, LLC,</p> <p>940 S. 5<sup>th</sup> W. #12308</p> <p>Rexburg, Idaho 83440</p> <p style="text-align: right;">Applicant</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>FINDINGS OF</p> <p>FACT AND CONCLUSIONS</p> <p>OF LAW, (REASONING &amp;</p> <p>DECISION)</p>
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**PEREGRINE TOWNHOMES PHASE #10  
PRELIMINARY AND FINAL PLATS AND PUD APPLICATIONS**

**FINDINGS OF FACT**  
(Reasonings)

Synopsis: Developer is the owner in law or equity, of a certain tract of land in the City of Sugar City, Madison County, Idaho, which land (hereafter referred to as "the Development" or "Old Farm Estates") is more particularly described in full by the proposed 2021 Development Agreement and the Old Farm Estates Master Plan and Master Zoning Map filed concurrently with these application. These and associated documents outline associated Phases and Zone Change Applications as drawn and further described in those documents, and which may at some future time be developed or are pertinent herein.

Prior to the date of these applications, litigation arose in 2017 from an Zone Change application filed by the Lerwill's to change the zoning of the real property more specifically and commonly known as "Old Farm Estates No. 3," to MU-1 and MU-2 zoning as recorded in the official records office of Madison County. As a result of this litigation a Settlement was agreed upon by the Developer and the City to approve the Zoning of Old Farm Estates No. 3 to MU-1 and MU-2 zoning. Since that time the City has approved several subdivisions and developments that have been platted within the Development. In order to provide a better plan for the entirety of the Development and in response to the agreed upon elements as a result the Settlement Agreement between the City and the Developer, the Development Agreement and Master Plan were required to be revised.

Zoning changes and relocation of platted areas are necessary to redevelop certain portions of the new Master Plan area which will allow for a centralized park as well as other public improvements. These Zone Changes and Plats are now before Planning and Zoning to comply with the Revised Development Agreement and Master Plan and to provide a better framework and commitment by the Parties.

1. Peregrine Townhomes Property Fund, LLC, of 940 S. 5<sup>th</sup> W. #12308, Rexburg, Idaho, 83440, submitted an Preliminary and Final Plats & Planned Unit Development Applications for Peregrine Townhomes, an Old Farm Townhomes Phased Development for Property



Located at Old Farm Estates Phase # 10, Sugar City, Idaho between w. 3rd s. and w 4th s. and directly west of s 3rd West. The property is in Lot 6, Block 14, and includes 25 town homes units currently zoned R3 with a density of 11.75 units/acre with 0.3 acres of completed park to be dedicated to the City containing in total, 1.88 acres, and legally described as follows:

The Property is described as:

A PARCEL OF LAND BEING SITUATED IN THE NORTHWEST 1/4 OF SECTION 9 TOWNSHIP 6 NORTH, RANGE 40 EAST OF THE BOISE MERIDIAN AND FOR WHICH IS MORE SPECIFICALLY DESCRIBED AS FOLLOWS: LOT 6, BLOCK 14 OF OLD FARM ESTATES, DIVISION NO. 2 AS RECORDED IN INSTRUMENT NO. 410845, DATED 7-13-2017.

CONTAINING 1.88 ACRES

2. Peregrine Townhomes Property Fund, LLC/Lerwill Development LLC are the record owner of the property featured in the Applications.

3. A public hearing on the application was held on August 25, 2021 at 6:00 p.m. at Sugar City Hall.

4. The application was deemed complete, and that all fees had been paid. All required notices regarding the hearing had been published, mailed and posted in a timely fashion as required by Sugar City Code and Idaho State law. The affidavit of publication and affidavit of mailing and posting were entered in the record and are included with this recommendation. Deputy clerk for the city of Sugar City signed affidavit of the above.

5. Brandt Monette, introduced the Application(s). In conformance with the newly proposed Master Plan and Zoning Map as well as the Revised Development Agreement Peregrine Townhomes is being requested as a Planned Unit Development. A Park shall be dedicated to the City on the North end of the development.

6. An opportunity to give testimony was given for those in favor, neutral and opposed to the applications. (see also the Finding of Facts in OFE Zone Changes and OFE Master Plan and Development Agreement for additional comments).

- The testimony of those in favor stated: As a result of the previous settlement agreement there exist certain entitlements that this development would revert to. These entitlements resulted in not a well-planned development but rather just be four-plexes and apartments which is not good for the residents, developers, or the public. This new plan has been painfully tried to make this Development as well as could possibly be done.
- The neutral testimony stated: Generally, there was testimony that the new plan was substantially better than the previous entitlements and several comments said they were encouraged by what they had heard from the Developers but there was several things they would have liked to see. There was concern for people that live along Phase 6 who don't live in the City and along Phase 1.

- Those in opposition stated: There was general concern about the impacts that would have on the City's infrastructure, water, sewer, and school's. There was general concern about having Phase 9 have so many townhomes when it was originally planned as single family homes on bigger lots. General concerns about changing the small town feel and the line in the Comprehensive Plan won't be "predominantly single family homes". General concerns were indicated that this will change the settlement agreement. There was a request that the City follow Title 8 of the code for the Developments. There was general concerns about open space in Phase 9. There was concerns about class room sizes. There was concerns about keeping Sugar City a small town. Parks need to have more than just fields, including things for the small children.

There was concerns about losing Commercial spaces in Phase 11 in favor of more homes. Additionally there was concerns about Phase 9 going up to a R2 zone and not having any buffering. Some people argued against any zone change for higher density.

- Response by Developer – The School Superintendent would be the proper individual to comment on the ability for the school to handle the growth by this Development. The School do need to grow and the Superintendant says the Schools can accommodate the demographic that will occur from this development directly. Clustering the apartments on the Western side will provide an important layer of density to areas that will have the least amount of impact for the other developments in the Master Plan. Tonight isn't about Density, but rather which Plan will chosen by the City. The proposed Plan tonight or the plan that is entitled. The open space calculations is based on the ambiguity in the code but has tried to make the open space usable, walkable, and connected. The alternative is to shove the open space into a corner of the individual developments and make it a "barracks" kind of development which does no one any good. The Developer will and already has to pay for the infrastructure required for that development.

7. Brandt Monette, introduced the Application(s). In conformance with the newly proposed Master Plan and Zoning Map as well as the Revised Development Agreement Peregrine Townhomes is being requested as a Planned Unit Development. A Park shall be dedicated to the City on the North end of the development.

8. Deliberation: There was some discussion staff Quinton Owens about concerns about southern end that had more hardscape planned there than is allowed by Code. There was originally 23 driveways that were all none complying to City Code. Though these southern driveways are not in conformance this is a far better plan. The Developer was somewhat limited by all the utilities in this development. Based on the layout of this Development and how it was originally planned the parking on the This was a true hardship and a far better plan which will be safer. Their maintenance plan says that the east parking and the park will be used for snow storage which should address Public Works Concerns expressed in their comments. The existing trees on the Eastern side of the property and fence shall serve as an adequate Buffer between dissimilar uses.

9. The Applications complied with Sugar City Ordinance(s) Title 8, Chapter 4; Title 9, Chapter 6; and Title 10; Title 50, Chapter 5-3; and Idaho Code Title 50 Chapter 13.

10. The Applications were properly Noticed according to Idaho Code 67-6509 and 67-6512.

## CONCLUSIONS OF LAW

(Decision)

### PRELIMINARY AND FINAL PLAT

The Sugar City Planning and Zoning Commission concluded the Preliminary and Final Plat Application meet Sugar City Ordinance(s) Title 8, Chapter 4; Title 9, Chapter 6; and Title 10 and Idaho Code Title 50 Chapter 13.

### SPECIAL USE PERMIT

The Sugar City Planning and Zoning Commission concluded the Special Use Permit Application(s):

1. Are in conformance and shall be subject to conditions pursuant to the Sugar City zoning ordinance.
2. That services for the proposed use are adequate.
3. That the application is not in conflict with the plan.

The following conditions shall be required:

1. That watered landscaping shall be required between each unit on the Southern units separating the units and irrigated landscaping boxes up against each unit.
2. Upon Public Works and City Engineer's approval, the Developer has offered not to build a sidewalk on the Southern end of the Development to try to address the safety concerns.
3. The Developer shall make the Southern Visitor Parking Stalls Green Space and irrigated.
4. Developer shall follow City Code by having Buildings at least 20' setback from 3<sup>rd</sup> West.
5. Follow Design Reviews Recommendations as contained in their Finding of Facts and Conclusions of Law.
6. Developer shall ensure that the park lighting will not pollute neighboring properties.
7. This Development shall adhere to the City Engineer's comments and shall be subject to his Approval.

### PLANNING AND ZONING COMMISSION RECOMMENDATIONS

Including all of the above, the Sugar City Planning and Zoning Commission recommend that the City Council approve the Plat and Planned Unit Development Application. It is also noted that the comprehensive plan, the land use schedule, public entity comment, public testimony and comments and expert testimony and comments were considered in the decision.

Signed and Dated this 3rd day of September, 2021.

By: \_\_\_\_\_  
Chairman, Planning and Zoning  
Commission

Attest:

\_\_\_\_\_  
City Deputy Clerk